

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS**

**IN RE:**

**KLINE, BERTRAM and JOANNE,**

**DEBTORS**

**Chapter 13  
Case No. 15-13929**

**SUPPLEMENTAL OPPOSITION TO EMERGENCY MOTION FOR  
CONTEMPT AND IMMEDIATE RETURN OF FUNDS OF THE BANKRUPTCY  
STATE (*SIC*)**

Santander Bank, N.A. (“Santander”) opposes the relief sought in the Debtors’ Emergency Motion for Contempt and Immediate Return of Funds of the Bankruptcy State (*sic*) (the “Motion”) and files this Supplemental Opposition because new facts have come to light since the filing of its original Opposition. In filing this Supplemental Opposition, Santander does not intend to waive any of the matters raised in its original Opposition. As further grounds for its denial of liability in this matter, Santander avers and says as follows:

1. The Motion seeks to impose sanctions on Santander because it exercised its right of set off of funds held in a deposit account owned by B.K. Enterprises, Inc. (the “Corporation”) against indebtedness owing to Santander by the Corporation.
2. The gravamen of the Motion is that Bertram Kline, the Debtor in this proceeding, is the owner of the Corporation and a guarantor of the Corporation’s debt to Santander, and that his combined status as owner of the Corporation, guarantor of the debt and debtor in this proceeding renders Santander’s actions unlawful.

3. Based upon the allegations of the Motion, and the reasonable belief that the Debtor knew that he was the guarantor of the Corporation's debt, Santander assumed in its opposition that the Debtor was in fact the guarantor of the Corporation's debt. This assumption was not well founded.

4. When the Corporation was formed, its incorporator was "Bertram Kline, Jr." and its initial officers were "Bertram Kline, Jr." and "Bertram Kline, Sr." (*See*, Exhibit "A" to Santander's initial Opposition.)

5. The person who executed the promissory note evidencing the Corporation's debt to Santander was "Bertram Kline, Jr." as President of the Corporation. (*See*, Exhibit "A" to Santander's initial Opposition.)

6. The only guarantor of the Corporation's debt to Santander is "Bertram Kline, Jr." (*See*, Exhibit "C" to Santander's initial Opposition.)

7. As of February 16, 2016, the sole officer and sole director of the Corporation was "Bertram Kline, Jr." (*See*, Exhibit "B" to Santander's initial Opposition.)

8. This Chapter 13 proceeding was initiated by "Bertram Kline, I."

9. The Debtor in this case, "Bertram Kline, I" did not list any ownership interest in the Corporation in his schedules, and did not list any liability to Santander as a guarantor of the debts of the Corporation in his schedules.

10. The foregoing facts suggest that it is likely that the Debtor in this case is not the owner of the Corporation, is not the guarantor of the Corporation's debt to Santander, and that there is absolutely no basis for the Motion.

WHEREFORE, Santander Bank, N.A. respectfully requests relief as follows:

1. That the Court decline to exercise jurisdiction over the dispute raised by the Motion and dismiss the contested matter initiated thereby.
2. In the alternative, that the Court deny the relief sought in the Motion and enter an order to that effect.

Respectfully submitted,

**SANTANDER BANK, N.A.,**

By its counsel,

/s/ Bertin C. Emmons

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#### **CERTIFICATE OF SERVICE**

I, the undersigned attorney, hereby certify that on the date appearing below, a copy of the foregoing was served electronically as provided in the Local Rules, and I caused copies of the foregoing pleading to be served upon the persons on the Service List by first class mail, postage pre-paid.

Dated: March 9, 2016

/s/ Bertin C. Emmons

#### **SERVICE LIST**

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